

REMARKS

The application contains 13 claims as filed, where claims 1 and 7 are independent. Except for some remarks regarding some of the dependent claims, the following arguments relate to the independent claims. The dependent claims are patentable for at least the same reasons as the independent claims from which they depend.

Rejection of claims 1-13

Claims 1-13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Martin et al. (US 5, 671,498) in view of Crabtree et al. (US 5,791,008).

Claim 1

The Examiner rejected claim 1 as being obvious, by modifying Martin to add flaps similar to Crabtree, to arrive at the claimed apparatus.

Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness, (a) for lack of a limitation, and (b) the combination would not result in the claimed apparatus.

Claim 1 defines “An abrasive pad comprising: an abrasive surface; and an elastomer or sponge material backing the abrasive surface and having an end remote from the abrasive surface; wherein the elastomer or sponge material is formed with two slits starting at edges of the spongy material and oriented substantially parallel to the abrasive surface near the remote end of the spongy material...” (emphasis added).

The Examiner stated that in Martin’s structure the sponge material has an end that is remote from the abrasive surface (60 and 62 in Martin’s fig. 4), and is cylindrical in shape.

In Martin’s apparatus, the sponge is inside the abrasive surface so it does not have an end remote from the abrasive surface (whatever the shape).

Crabtree teaches a sponge with slits and tabs that resembles the present invention, but lacking the additional abrasive surface.

Based on Crabtree’s motivation for an even contact surface of the sponge, the Examiner states an obviousness case to add the flaps (tabs) of Crabtree to the embodiment of Martin. However, some of the embodiments of Martin are completely covered with abrasive material so there is no access to the sponge backing. In the cylindrically shaped embodiment of Fig. 4, the sponge is exposed only at the bases (ends). Even ignoring that these are not ‘near the remote end’, it makes no sense in parallel slits forming tabs into these ends, and certainly not utilizing the motivation of

the Examiner. It is noted firstly that the tabs proposed by the Examiner (which would have to be in the ends of the embodiment of Fig. 4 of Martin), would require two hands to hold the abrasive pad. No person of the art would make this change. Furthermore, since the cylindrical abrasive device would be held at the ends rather than in the hand as would be the case without the change, the pressure applied to the surface being scrubbed would be less even if held by the tabs than if held in the hand of the user. Furthermore, folding the sponge at the slits will crumple the abrasive surface and it would not allow for pressing the abrasive surface against anything, and certainly would not give a more uniform pressure.

Claim 7 (and 3-5)

The Examiner rejected claim 7 as being obvious by modifying Martin to add a protective ring to arrive at the claimed apparatus. Additionally, the Examiner asserts that Martin already has a protective ring - though not of the sponge material - and shifts the burden of proof to the applicants to demonstrate the unexpected results from having the ring of the same material as the backing, i.e., sponge or elastomer.

Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness, (a) for lack of a limitation, and (b) the addition of the ring will render Martin apparatus ineffective. Additionally the applicants note that the protective ring has a well-defined function, which is not achieved by the Examiner assertion.

Claim 7 defines “...a separate ring of elastomer or sponge material surrounding the backing material to reduce contact between the edge of the abrasive pad and a surface being abraded” (emphasis added).

In contrast with Martin’s apparatus and its ‘protective’ ring of abrasive material, claim 7 (and 3-5) defines that the ring is of elastomer or sponge, so the claimed limitations are not met. Applicants note that while Martin has two elements the claim requires a third element, namely the separate ring. The Examiner has not provided any motivation to add a third element to Martin's scrubber pad. Applicants note that Martin already has the backing and the abrasive surface. There is no motivation to provide any material to *reduce the contact between the edge of the abrasive surface and a surface being abraded*. Applicants submit that this limitation is structural in nature and defines the structure not only by where the additional ring would be provided but also by the function it would carry out. This is not an intended use limitation.

Furthermore, if the thrust of the rejection is that the abrasive surface should be replaced by the ring, then the device would no longer be an abrasive pad. If the thrust of the rejection is that the internal sponge cylinder be surrounded by a second ring and that this be covered by the abrasive cover, then there is no reason for making this change, since the sponge ring would have no function and certainly not the function required by the claim. Finally, if the Examiner is proposing that the ring be on the outside of the abrasive material, then the ring would defeat the purpose of the abrasive surface.

The Examiner states that Martin's apparatus has, around the sponge, a 'protective' ring made of an abrasive material (Martin's fig. 4 and 5). Thus, the Examiner asserts that the ring is for protection, yet does not clarify what and how it protects. Applicants note that this ring provides the very purpose of Martin's scrubbing device, so it is unreasonable to consider it as protective.

Applicants submit that the Examiner has not established a *prima facie* case of obviousness since the prior art does not meet all the limitations of the claims and there is no motivation or expectation of success to combine the two references to form the claimed device.

Applicants suggest that if the Examiner wishes to maintain this rejection he indicate not only that the references can be combined, but also *how* they can be combined, since, as explained above this is not evident from the references themselves.

Applicants submit that the application is now in order for allowance. Notice to that effect is respectfully solicited. In view of the above remarks, applicants submit that the dependent claims are allowable at least because they depend on an allowable claim. If, however, the Examiner is not convinced and the Examiner is of the opinion

that a telephone conversation may forward the present application toward allowance, applicant respectfully requests that the Examiner call the undersigned at 1 (877) 428-5468. Please note that this is a direct toll free number in the US that is answered in the undersigned's Israel office. Israel is 7 hours ahead of Washington.

Respectfully submitted,
Zion Azar et al.



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